

LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

WEDNESDAY, 6 OCTOBER 2021

PRESENT: Councillors John Bowden, Geoff Hill and Sayonara Luxton

Officers: Craig Hawkings, Anthony Lenaghan, Mark Beeley, Oran Norris-Browne and Jatinder Rakhra

APPOINTMENT OF CHAIRMAN

Councillor Bowden proposed that Councillor Luxton be Chairman of the Sub-Committee. This was seconded by Councillor Hill.

RESOLVED UNANIMOUSLY: That Councillor Luxton be Chairman of the Sub-Committee.

APOLOGIES FOR ABSENCE

No apologies for absence had been received.

DECLARATIONS OF INTEREST

There were no declarations of interest made.

PROCEDURES FOR SUB COMMITTEE

Members noted the procedures for the Sub-Committee.

CONSIDERATION OF APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003

Craig Hawkings, Licensing Team Leader, introduced the item and outlined the application and the issues for the Sub Committee members to consider. He stated that this application was to license a town centre bar and nightclub.

A summary of the application was as follows:

- Films Indoors Monday to Sunday 11:00 – 03:00
- Live Music Indoor Monday to Sunday 11:00 – 03:00
- Recorded Music Indoors Monday to Sunday 11:00 – 03:00
- Performance of dance Indoors Monday to Sunday 11:00 – 03:00
- Late night refreshments Indoor Monday to Sunday 23:00 – 03:00
- Supply of alcohol on & off (Both) the premises Monday to Sunday 11:00 – 03:00
- Hours premises are open to the public Monday to Sunday 11:00 – 03:30
- Seasonal Variation: On the commencement of British Summertime and on that day only, opening hours will be extended by one hour On New Year's Eve opening hours will be extended until the start of permitted hours on New Year's Day.

The Designated Premises Supervisor (DPS) was Mr Duncan Squires.

Craig Hawkings said that where, relevant representations had been made, the licensing authority must hold a hearing to consider them, unless agreed by the parties.

The Licensing and Public Space Protection Order Sub-Committee could take steps as are appropriate for the promotion of the Licensing Objectives as relevant.

To be “relevant”, the representation had to relate to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives which were set out in the Licensing Act 2003.

The four licensing objectives were:

- The prevention of crime and disorder.
- Public safety.
- The prevention of public nuisance.
- The protection of children from harm.

In this case the representations received from the responsible authorities were as follows;

- Environmental Health: None
- RBFRS: None.
- Planning Officer: None.
- Local Safeguarding Children's Board (LSCB): None.
- Public Health: None.
- Trading Standards: None.
- Thames Valley Police: Representation.
- RBWM Licensing: None.

2 Representations had been received altogether, one from a resident and one from Thames Valley Police, which were in appendix C.

The Reporting Officer went through the options that the Sub-Committee had.

Questions to the Reporting Officer from Members:

Councillor Bowden asked what the operating hours were for other bars and nightclubs in that local area.

Craig Hawkings stated the following:

Scotch Bar (Times restricted by planning)

- 11:00 – 02:00 Monday – Thursday
- 11:00 – 03:00 Friday – Saturday

Boom Bar (Times restricted by planning)

- 11:00 – 01:00 Monday – Thursday
- 11:00 – 02:00 Friday – Saturday (02:30 close)

Charlie's Horse

- 10:00 – 01:00 Monday – Thursday
- 10:00 – 02:00 Friday – Saturday (02:30 close)

ATIK

- 11:00 – 03:00 Friday – Saturday

Councillor Bowden expressed concern that there was no representation from Environmental Health and asked if there was any comment from them with regards to litter in that area specifically.

Craig Hawkings confirmed that this was correct, and no representation was received.

Councillor Bowden asked if it was normal for bars and nightclubs to apply for a license for alcohol on and off the premises.

Craig Hawkings confirmed that businesses were free to apply for what they wanted, and he noted that the laws regarding this had changed due to the pandemic.

Councillor Hill asked with regards to the change in the law if this had any effect on changes in operating hours. Craig Hawkins confirmed it had no effect and this was a normal practice.

Councillor Hill asked if any complaints had been received in the past from the same site when there was previous ownership.

Craig Hawkings said that the police would have crime statistics available for that area, if required.

Councillor Hill said that another similar venue that applied for a licence recently had offered to dispose of litter in the local vicinity to the club outside. He asked if the applicant had made any such offer. Craig Hawkins stated that he would have to review the operating procedures to confirm this.

Councillor Bowden asked for clarification as to how many SIA's would be present at the location.

Craig Hawkings stated that an agreement had been reached between the applicant and Thames Valley Police regarding door staff numbers and body worn cameras.

Councillor Bowden asked if there were any mechanisms in place for ID scanning and the identifying of weapons.

Craig Hawkings said that this was a requirement put forward by Thames Valley Police for the scanning of all ID's and not just the implementing of the Under 25 policy. He said that this was being contested by the applicant, as a form of discretion was desired in the use of the ID scanner.

Councillor Hill asked if it was normal for nightclubs to have discretion when it came to ID scanners and if other local nightclubs had this.

Craig Hawkings confirmed that ATIK had a condition in their license where they must scan all customer ID's, with SIA personnel on duty and that no other nightclubs in Windsor can exercise discretion when it came to scanning ID's.

The Chairman asked the Reporting Officer for clarification with regards to the operating hours and specifically RBWM's frameworks around this.

Craig Hawkings said that the framework policy was merely a guide and was not strict rules. If there were no representations, then there would be no issue with a premises having operating hours, that were different to the RBWM's frameworks.

The Chairman asked for the Legal Officer to confirm this. Anthony Lenaghan (Legal Officer) confirmed this to be correct.

Questions to the Reporting Officer from Applicants:

No Questions were asked.

Applicant's Case:

Andrew Woods (Applicant's Representative) began by clarifying the location of the premises, as being at the top of Goswell Hill as opposed to the bottom. He then clarified by stating that the sale of alcohol would end at 03:00 hours and the premises would close at 03:30 hours, to allow for 30 minutes drinking up time. Andrew Woods stated that this drinking up time was a normal practice for nightclubs nationally.

Andrew Woods said that the applicant was applying for the same operating hours as ATIK and that they were a specialist late night operator, the same as ATIK.

Andrew Woods then referred to Scotch Bar by stating that it had a closing time of 04:00 hours on Friday's and Saturday's, with no sale of alcohol between 03:00 and 04:00 hours.

Andrew Woods clarified that the applicant was not seeking anything more than what had previously been granted by the RBWM to other premises.

Andrew Woods stated that the applicant was withdrawing their request for alcohol off-sales and reiterated that their position was as an indoor venue only. He also said that contact was made to the Environmental Health Agency for comments, however nothing was received.

Andrew Woods said that contact had been made with the resident who put in the representation, however no response was received. He said the offer was still there for discussions to occur.

Andrew Woods also said that contact was made with Debbie Pearmain (Thames Valley Police), with positive discussions having taken place. Andrew Woods stated that if the Applicant's proposed operating hours were agreed too, then the applicant would agree to the same conditions as ATIK, including a 100% scanning of all customer ID's, if the application was granted as requested.

Andrew Woods said that he could see no conditions involving ID scanning by any other premises that had been discussed, such as Scotch Bar. He said ATIK was the only premises with this condition.

Andrew Woods said with regards to operating hours, the Licensing Act 2003 allowed the applicant to apply for any hours it desired such as 24 hours a day. This was clearly stated as an example and reiterated that the RBWM's frameworks were a guide and were determined by whether the licensing objectives were met.

Andrew Woods clarified that the fire exit for this venue was at the front of the premises at the top of Goswell Hill, compared to other businesses where theirs exit through the back.

Andrew Woods stated that the applicant's relationship with Thames Valley Police was very good and that prior to the application being made, the applicant's co-owner held talks with Debbie Pearmain with regards to operating in Windsor.

He said that the police did not object to the license, but instead wanted:

- 10 additional conditions added.
- Closing time of 02:00 hours Sunday – Thursday
- Closing time of 02:30 hours Friday – Saturday

Andrew Woods reiterated that if the license was given as applied for, then the applicant would agree to all 10 conditions. He also noted that 2 members of SIA would be deployed with body-worn video cameras, with 1 inside and 1 outside the premises.

Andrew Woods said that if the application was not granted as requested, then the applicant had requested that some discretion would be allowed towards the scanning of ID's. He said that some customers in extreme circumstances would be granted entry to the premises without ID, with management noting their details. A 56-year-old male in a suit was used as an example of this extreme circumstance.

Andrew Woods continued by stating that for a representation to be valid, it needed to set out why the licensing objectives would be impacted. He said that the Thames Valley Police

representation did not do this and did not give reasons as to why the licensing objectives would not be met and why the required operating hours were not acceptable.

Andrew Woods said that the regulation dictates that oral evidence at the Sub-Committee can only be based upon the written representation that was given. He invited the Legal Officer to consider this.

Andrew Woods began his summary by saying that the applicant was a specialist late night operator and utilised its operating manual to train staff to a high level. He added that the applicant had previously won an award for working in the late-night economy.

Andrew Woods also said that there were 3 owners of the business and that it was funded through their own finances, and that there were no bank loans or corporate finance involved. The spend here would total around £400,000 and they would employ 25-30 members of staff, with a further 15 employed through agencies.

Andrew Woods said that the conditions discussed by the Police and Trading Standards had been noted. He also added that at the end of every trading night, staff would go outside the premises to clean up in the local vicinity.

Andrew Woods said that a Welfare Officer operated at its premises, and that there were clear guidelines on drugs, weapons and keeping customers safe.

Andrew Woods stated that the licensing objectives had all been met and that the applicant would be in healthy competition with ATIK as a main competitor, hence the desire to mirror their licence.

Questions to the applicant by members:

The Chairman asked if it was Halloween or New Year's that opening hours would be extended. Andrew Woods confirmed that it was New Year's.

Councillor Hill asked what the previous opening hours were for the premises, formally known as Vanilla.

Andrew Woods said that it was originally a closing time of 04:00 hours, but this was reduced by the RBWM due to some issues with the premises.

Councillor Hill asked why the applicant required an extended opening time for New Year's and asked if ATIK did this. Andrew Woods stated that their desire was to be granted the same privileges as ATIK.

Councillor Bowden asked for clarification as to the exact location of the premises. Andrew Woods clarified this.

Councillor Bowden expressed his concern as to the number of SIA's that were planned to be used and what the occupancy level would be.

Andrew Woods replied by stating that the former premises being Vanilla, was believed to have an occupancy of around 400 customers. The proposal that the police were happy with was that 2 SIA's would be the standard number with an additional SIA being added per 100 extra customers.

- 2 SIA's – 100 customers
- 3 SIA's – 200 customers
- 4 SIA's – 300 customers

Andrew Woods stated that the applicant was more than happy to add this as a condition.

Councillor Bowden asked how the applicant's SIA's would manage the dispersal of customers from the premises with the concern of customers from multiple bars and nightclubs mixing.

Andrew Woods said that there was no evidence of any conflict between customers of multiple venues. Door staff and management would keep an eye out for conflict and manage dispersal in the best way they could.

Councillor Bowden pointed out one of the four licensing objectives being the prevention of crime and disorder and public safety.

Andrew Woods stated that with the agreed conditions and the use of the operations manual, customers would be dispersed in the most effective way to meet that licensing objective.

Councillor Bowden asked if there would be any queue management outside of the premises.

James Elias stated that there would be a system in place, and that this would be managed by security and management. James Elias also stated that there would be a staged close of the premises, with one room at a time to allow for the dispersal of customers.

Councillor Bowden asked if there would be opportunity for taxis and private hire vehicles to be booked inside the premises. James Elias confirmed this.

The Legal Officer said that a condition had been agreed between the applicant and Thames Valley Police regarding the dispersing of customers from the premises.

The Chairman asked if the Welfare Officer was medically trained. James Elias said that this was a very new role and being medically trained was not currently on the job specification.

The Chairman asked if the applicant would distribute items such as lollipops when customers are leaving the premises. James Elias confirmed this was not done every night, however it was something that they do with a range of items.

The Chairman asked how far in terms of distance would the premises go in dispersing customers from the premises. James Elias said he would usually focus on the immediate vicinity to the premises, due to the protection of the venue being important also.

Objectors Case:

Inspector Mike Darrah (Neighbourhood Inspector Windsor & Maidenhead, Thames Valley Police) stated that there were 2 objections being made by Thames Valley Police.

These were as follows:

1. The length of the opening hours including the extra 30 minutes of drink up time.
2. The scanning of customer ID's.

Mike Darrah stated that the existing licenses for other venues discussed on Goswell Hill had been in operation for several years, and that the world was now in a different place when it came to the night-time economy.

Mike Darrah stated that the average age of customers pre-covid was between 22-25, however this was now 18-19 years old. He also said that the demand for the night-time economy had risen massively, with crime and disorder increasing too because of this.

The Legal Officer stated that as per the Licensing Act 2003, no new evidence could be brought forward to the panel, unless consented to by the applicant. The Legal Officer confirmed that this was not the case.

Mike Darrah acknowledged this and said that the hours applied for were too late and that crime in that area was already high. He said if any neighbouring venues also requested these operating hours in the future, then Thames Valley Police would object once again.

Mike Darrah said that the scanning of ID's was there to prevent crime and disorder and significantly aids investigations if needed. He stressed that discretion being given with the ID scanner, could potentially be abused, and was not recommended by Thames Valley Police.

The 2nd objector who was a resident, was not present, so the written submissions were considered by the Sub-Committee.

Questions to the Applicant from the Reporting Officer:

Councillor Hill asked the Legal Officer as to what could be considered from the objector, and what had to be disregarded as new evidence.

The Legal Officer outlined the new information that was mentioned and stated that this must be disregarded unless it was present within Debbie Pearmain's written representation.

The Chairman asked if ATIK had a staggered closing time to aid with dispersal. Craig Hawkings confirmed this.

Summary from the Applicant:

The applicant agreed that the ID scanner would be used for all customers 100% if the license as applied for was agreed.

Andrew Woods said that neither representation was put before the panel outlined specific reasons as to why the licensing objectives were not being met. He also said that the applicant would continue to work closely and openly with the police and that the operations manual would be kept constantly open to change and adaptation.

Andrew Woods said that the applicant could operate until 03:00 hours whilst meeting all the licensing objectives and adhering to the 10 conditions put forward by the police.

Summary from the Reporting Officer:

The Reporting Officer reminded the Sub-Committee that it was obliged to determine this application with a view to promoting the four licensing objectives which were:

- The prevention of crime and disorder.
- Public safety.
- The prevention of public nuisance.
- The protection of children from harm.

In making its decision, the Sub Committee was also obliged to have regard to national guidance and the Council's own Licensing Policy. Of course, the Committee must have regard to all the representations made and the evidence that it heard.

The Sub-Committee must, having regard to the application and to the relevant representations take such step or steps as it considered appropriate for the promotion of the licensing objectives.

The steps were:

(a) Reject the application.

(b) Refuse to specify a person in the licence as the premise's supervisor. (*Note – not all of these will be relevant to this particular application)

(c) Grant the application but modify the activities and/or the hours and/or the conditions of the licence.

(d) Grant the application. Where conditions were attached to a licence then reasons for those conditions must be given.

The Sub-Committee were reminded that any party to the hearing may appeal against the decision of the Sub-Committee to the Magistrates' Court within 21 days of the notification of the determination.

Decision:

After careful consideration of all the evidence, the Sub-Committee decided to allow the application subject to the conditions that had been requested by Thames Valley Police and the conditions agreed to by the applicant. The sale of alcohol and licensable activities are as follows:

- Sunday – 11am to 2am
- Monday – 11am to 2am
- Tuesday – 11am to 2am
- Wednesday – 11am to 2am
- Thursday – 11am to 2am
- Friday – 11am to 2.30am
- Saturday – 11am to 2.30am

Season variation: On New Year's Eve, opening hours will be extended to 3.30am.

Other conditions included:

- The withdrawal of the sale of alcohol off the premises.
- A welfare officer being available.
- An agreed dispersal policy, following discussions with Thames Valley Police.
- The scanning of all ID's, with no discretion allowed.
- The cleaning of litter outside and in the direct vicinity of the venue.

The Sub-Committee considered the written submissions provided by the applicant, Officers of the Council, and objectors.

The Sub-Committee also heard oral evidence provided from Craig Hawkings, the Reporting Officer at RBWM, Andrew Woods, Applicant's Representative, James Elias, Co-owner of Epic Bars and Clubs Berkshire Limited and Mike Darrah, Thames Valley Police.

In making their decision, the Sub-Committee had regard to its duty to promote the four licensing objectives.

The meeting, which began at 10.30 am, finished at 12.50 pm

CHAIRMAN.....

DATE.....